THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.1616 of 2006

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Dated:30.01.2006

Between:

Batchu Madhava Rao, s/o.Late Khamandu,

Aged:72 years, R/o.D.No.33-8-1,

Vallabhai Street @ Cinema Street,

Kakinada, E.G.Dist, and others.

..... PETITIONER

AND

The Kakinada Municipal Corporation,

Rep. By Commissioner,

Kakinada, East Godavari District, and others.

.....RESPONDENTS

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WRIT PETITION No.1616 of 2006

ORDER:

The petitioners claim to be the absolute owners and possessors of different premises situated at Vallabhai Street @ Cinema Street, Kakinada, East Godavari District. It is alleged that the Kakinada Municipal Corporation (KMC) came to the petitioners' premises and marked certain portions of their premises for demolition for widening the existing road. The petitioners allege that the action of the respondents in proposing to demolish their premises without following due process of law is illegal and arbitrary.

Heard the learned Counsel for the petitioners and the learned Standing Counsel for KMC. After getting instructions in the matter, the learned Standing Counsel for KMC

submits that if the petitioners are not willing to give their consent, necessary action would be taken in accordance with Section 147 of the Hyderabad Municipal Corporations Act, 1955 (the HMC Act, for short) for acquiring the land. The learned Counsel for the petitioners does not dispute that unless the petitioners are deprived of their property in accordance with due process of law, their right to enjoy the property cannot be denied.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities – be it local body, Corporation or Government – cannot highhandedly dispossess the petitioner or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners or acquiring the land as per Section 147 of the HMC Act in case the owners are not inclined to give willingness to part with the land voluntarily. The respondent authorities cannot highhandedly take coercive action against the petitioners.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 147 of the HMC Act are initiated, the petitioners' right to enjoy their properties cannot be denied nor KMC officials can demolish premises of the petitioners without notice.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

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(V.V.S.RAO, J)

30.01.2006

vs